



COUNTRY CLASSIC DAIRIES, INC.

EXHIBIT 7

DATE 3/31/09

SB 286

March 27, 2009

Representative Jopek, Chairman
House Agriculture Committee

Chairman Jopek,

The Country Classic Dairies (CCD) cooperative board members present at the House Agriculture Committee meeting on Thursday, March 26, feel it is necessary to clarify information that was presented by a committee member during executive action on SB 286.

1. It was claimed that, as the result of a court opinion, CCD was required to pay back deductions that were applied to various farmers as the result of the implementation of the Co-op's quality control program. This is simply not true. The District Court, in Cause No. DV-08-500C, Order Dismissing counterclaim, declaratory action, and third-party complaint, did not require any payment of any kind. There is no Court order finding that CCD ever violated a minimum pricing rule. [Attachment A]
2. The Milk Control Board, at its April 27, 2009 meeting has an agenda item to discuss the proposed amendment to ARM 32.23.102(2). The agenda, the existing rule, and the proposed rule are attached. Upon review, you will see that the Board of Milk Control intends to limit CCD's ability to operate its own business and to limit the implementation of a quality program. [Attachment B]
3. The Federal Capper-Volstead Act, Approved, February 18, 1922. (42 Stat. 388) 7 U.S.C.A., 291-192, provides that persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes. This makes it clear that the Co-Op has the ability to manage their business as they see fit. [Attachment C]
4. The numbers that were provided regarding the deduction portion of the CCD quality program were inaccurate. The quality program was implemented in 2005. During the time of its operation, the quality program provided premiums to its members of \$570,564.84. During that same time period the quality program implemented deductions of \$102,880. It is clear that by a nearly 5 to 1 margin producers are benefitting significantly from the quality program implemented by CCD. A majority of CCD members that were assessed deductions also received premiums. [Attachment D]

CLERK OF DISTRICT COURT
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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

COUNTRY CLASSIC DAIRIES, INC.,

CAUSE NO. DV-08-500C

Petitioner,

vs.

**ORDER DISMISSING
COUNTERCLAIM, DECLARATORY
ACTION AND THIRD-PARTY
COMPLAINT**

**MILK CONTROL BUREAU, a bureau within
the Montana Department of Livestock,**

Defendant,

AND

**BOARD OF MILK CONTROL, a political
subdivision of the State of Montana,**

Defendant, and Third
Party Plaintiff,

vs.

**MONTANA DEPARTMENT OF LIVESTOCK,
and the department head for the
Department, the MONTANA BOARD OF
LIVESTOCK,**

Third Party Defendant,

AND

**MEADOW GOLD DAIRIES, and
MONTANA MILK PRODUCERS
ASSOCIATION,**

Intervenors.

**BOARD OF MILK CONTROL MEETING
STATE OF MONTANA DEPARTMENT OF LIVESTOCK BLDG
303 N ROBERTS, SCOTT HART BUILDING AUDITORIUM
April 27, 2009, 10:00 a.m.**

Agenda

Monday

10:00 a.m. Call to Order & Administrative Items

Approval of Board of Milk Control Minutes
From January 22nd 2009, Meeting.

ITEM #1 STATUS OF SB 286

- A. Summary of SB 286 MCB Jurisdiction
- B. Rule 32.23.102 (2) Proposed Amendment
- C. New Rule Proposals
- D. Discussion
- E. Public Comment

New Business.

OPEN MICROPHONE - Public Opportunity to Address MCB Issues

SET DATE FOR NEXT MCB MEETING

ADJOURNMENT

The State of Montana makes reasonable modifications for any known disability that may interfere with a person's ability to participate in state government. Persons needing an accommodation must notify Monte Nick no later than two weeks prior to the meeting to allow adequate time to make needed arrangements. You can call 406-444-2875 or write Milk Control Bureau, P O Box 202003, Helena MT 59620 to make your request known.

ADMINISTRATIVE RULES OF MONTANA

Milk Control Bureau

32.23.102 Transactions involving the purchase and resale of milk within the state

(1) As an aid to the efficient collection of license fees and assessments, each distributor who purchases milk from producers shall deduct from payments due such producers any license fees and administrative assessments due the department from such producers under 81-23-202 and 81-23-105, MCA. The distributor shall transmit such fees and assessments to the department together with a statement of individual producer assessment payments. Assessments under 81-23-202, MCA, shall be reported and paid at least quarterly, as provided in that section. Assessments under 81-23-105, MCA, and ARM 32.23.302 shall be separately reported and paid monthly.

(2) Deductions of any kind (other than assessments that are required under 81-23-105 and 81-23-202, MCA, and license fees) from payments due producers may be made ONLY UPON WRITTEN AUTHORIZATION from producers, or, in the case of cooperatives, upon formal resolution of the directors at a regular business meeting. A copy of such authorization shall be retained by the distributor as part of its permanent records for its own protection.

(3) When producer payments are based upon butterfat tests from composite samples, a portion of each composite sample must be retained until the succeeding composite sample is tested.

(4) Each distributor must maintain a record of butterfat tests of each producer's milk or cream covering each pay period and provide each producer with each butterfat test result made for that producer as provided in (7) of this rule. Such record shall be kept on file for two years and be made available to any authorized agent of the department upon request.

(5) On or before the tenth day of each month, the bureau will post for public inspection in the main office of the department an original notice of the class I, II and III prices to be paid producers for grade A milk by distributors during the next calendar month. In addition thereto and on the same day, the bureau will cause a correct copy of the posted notice to be mailed to each distributor, producer-distributor, and producer licensed under the Act. The notices must contain not only statements of the correct prices to be paid, but statements of the applicable Chicago area average prices relied upon, and the mathematical computations by which Montana prices were arrived at.

(6) For the purpose of determining the audit value of producer milk delivered to a plant under 81-23-302, MCA, all butterfat and skim milk received from producers shall be considered as utilized by the plant in either class I, II or III as indicated by plant processing and sales records. Skim milk dumped or allocated to allowable shrinkage shall be considered as utilized in class III for pricing purposes.

(7) Distributors purchasing milk or cream from producers shall render to producers not later than the 15th day of each month, statements showing each of the following items:

- (a) name and address of distributor issuing statement,
- (b) date of statement,
- (c) period for which statement is rendered,
- (d) name of producer for whom the statement is intended,
- (e) producer butterfat tests for the first half of the month or other test period,
- (f) producer butterfat tests for the last half of the month or other test period,

Milk Board
proposed Rule
Change

Exhibit 1

32.23.102 TRANSACTIONS INVOLVING THE PURCHASE AND RESALE OF MILK WITHIN THE STATE

(1) As an aid to the efficient collection of license fees and assessments, each distributor who purchases milk from producers shall deduct from payments due such producers any license fees and administrative assessments due the department from such producers under 81-23-202 and 81-23-105, MCA. The distributor shall transmit such fees and assessments to the department together with a statement of individual producer assessment payments. Assessments under 81-23-202, MCA, shall be reported and paid at least quarterly, as provided in that section. Assessments under 81-23-105, MCA, and ARM 32.23.302 shall be separately reported and paid monthly.

(2) (a) Deductions of any kind (other than assessments that are required under 81-23-105 and 81-23-202, MCA, and license fees) from payments due producers may be made ONLY UPON WRITTEN AUTHORIZATION from producers, or, in the case of cooperatives, upon formal resolution of the directors at a regular business meeting. A copy of such authorization shall be retained by the distributor as part of its permanent records for its own protection and a copy must be provided to the Milk Control Bureau for use in reconciliation of monthly audits and for enforcement purposes. The Bureau must also be notified immediately of any addition or deletion of any authorization.

(b) This rule may not be relied upon by any distributor to adopt any punitive assessment or deduction from the minimum payment due any Montana milk producer who produces and delivers milk meeting the quality standards set by the state of Montana.

(c) Any distributor who wishes to establish an incentive program in an effort to encourage the production of milk by any Montana producer at a quality standard higher than set by the state of Montana may do so.

(d) In connection with such a program, assessments may be established by any distributor and may be deducted from the minimum price owed to Montana producers only if the individual producer voluntarily elects in writing to participate in the incentive program and the specific assessment is agreed to in writing by the individual producer.

(e) A copy of the signed election and consent executed by the individual Montana Milk producer must be furnished by the individual producer to the Milk Control Bureau for audit reconciliation and enforcement purposes.

(f) In addition to being voluntary, the assessment must be both reasonable and uniform.

(g) No deduction for such assessment may be made from the amount due any Montana producer if that producer does not voluntarily elect to participate in any such incentive program and consent in writing to the deduction of the assessment from the minimum price owed to the individual producer.

(h) All funds collected in connection with such incentive program must be set aside by the distributor and paid to those Montana milk producers participating in the incentive program on a quarterly basis on a pro rata

(c) net amount due and paid.

(8) On or before the eighth business day after the end of each month, in detail and on forms supplied by the department, each distributor must submit to the department a report of the information required by ARM 32.23.512, and a report of:

(a) out-of-state sales (packaged and bulk) ; and

(b) information of what producers, to the distributor's knowledge, have gone out of business during the preceding month.

(9) On or before the 15th day of each month, each distributor must submit to the department a duplicate or other correct copy of its producer payroll for the preceding month, indicating total producer deliveries and payment for the preceding month for each producer supplying the plant.

(10) Each distributor whose place of business is outside the state of Montana, but who comes under the jurisdiction of the Milk Control Act, and of this rule by virtue of his distributing milk within the state, either in bulk or packaged form, must file with the department on forms supplied by the department, on or before the 15th day of each month, a report of sales of such milk during the preceding month.

(a) Each import jobber who purchases milk from sources outside the state of Montana for resale in Montana must file with the department, on forms supplied by the department, on or before the 15th day of each month, a report of sales of such milk during the preceding month.

(b) Each producer-distributor shall file with the department, on forms supplied by the department, on or before the 15th day of each month, a report of his class I sales and disposition of production in excess of class I sales during the preceding month.

(11) The department shall cause periodic audits of the books and records of distributors to be made to verify the utilization of all milk reported pursuant to ARM 32.24.512, thereby establishing payment or nonpayment of producer prices fixed by rules of the board.

(a) Overpayments made by distributors not offset against underpayments or otherwise collected by the distributors within ninety days after final settlement of the audit of the period during which the overpayment was determined will not be credited to the distributor in any subsequent audits.

(b) Upon completion of each audit, the distributor will be furnished with an audit summary and commentary with respect to audit results and with indicated producer adjustments, if any, for each month audited. All underpayment settlements must be paid to producers on or before the next regular pay date and proof of such settlement payments must be filed with the department by the distributor forthwith.

(c) At any time a distributor is unwilling or unable to reconcile the audit results with rules of the board and/or department it may request a review of the audit by the bureau. The time limitation for final settlement payment to producers will be stayed until ten days after such review is completed and the distributor has received notice of the bureau's decision.

The Capper-Volstead Act

(Public-No. 146-67th Congress)

An Act to Authorize Association of Producers of Agricultural Products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: Provided, however, That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

Sec. 2. That if the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural produce is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree

Quality Premium & Deductions Jan 2005 through September 2008

ATTACHMENT
D

Prod Number	Name	Year	Cal Yr Qual Prm	Cal Yr Qual Ded
1	BRAAKSMA DAIRY	2005	2,992.24	
		2006	5,228.58	
		2007	1,730.25	
1			9,951.07	
2	B-3 INC	2005	14,819.86	
		2006	11,744.75	
		2007	10,704.69	
		2008	3,370.78	
2			40,640.08	
3	JRB DEVELOPMENT	2007		1,125.12
3				1,125.12
4	KAMERMAN, BRAD	2005	4,925.72	
		2006	5,361.92	
		2007	5,090.84	
		2008	2,999.39	686.43
4			18,377.87	686.43
5	MARX, BILL J.	2005	460.77	
		2006	322.13	
		2007	884.03	
		2008	704.93	
5			2,371.86	
6	KAMERMAN, LINDY	2005	184.80	
		2006	308.73	
		2007	367.70	
		2008	164.07	36.66
6			1,025.30	36.66
7	KIMM, JAY A.	2006		273.82
7				273.82
8	BOS, DEEANN	2007		2,690.04
		2008		5,965.40
8				8,655.44
10	CONNERTON, CRIS	2005	3,223.49	
		2006	1,132.39	
10			4,355.88	
11	KAMERMAN, DARON	2005	2,024.61	
		2006	2,031.29	
		2007	3,141.47	
		2008	1,528.73	312.25
11			8,726.10	312.25
12	BOS, ROBERT W.	2005		26,254.80
		2006		21,750.95
		2007		434.16
12				48,439.91
14	COK, TIMOTHY S.	2005		368.08
		2006		182.02
		2007		259.72

Quality Premium & Deductions Jan 2005 through September 2008

Prod Number	Name	Year	Cal Yr Qual Pm	Cal Yr Qual Ded
28	TATARKA, WILLIAM J.	2006	6,896.58	
		2007	6,959.51	
		2008	5,806.21	
28			23,511.87	
29	FAITH DAIRY LLC	2006	3,388.39	
		2007	2,387.88	773.37
29			5,776.27	773.37
30	BOS, DAVID H.	2005	1,997.28	
		2006	324.93	
30			2,322.21	
31	WESTRA, DON	2006		319.69
		2007		5.92
31				325.61
32	BOS, SHAWN	2005	91.00	
		2006	16.00	
32			107.00	
33	L.F. DAIRY INC	2007	1,016.82	982.25
		2008	2,271.32	539.48
33			3,288.14	1,521.73
34	BROUWER DAIRY	2005	1,410.80	
		2006	301.80	
		2007		52.03
34			1,712.60	52.03
36	GREENLINE DAIRY INC.	2005	5,950.72	
		2006	5,139.71	
		2007	5,225.67	
36			16,316.10	
37	FLIKKEMA, MICHAEL	2007	1.00	
37			1.00	
38	GROSSKOPF, LAUREL ALBERDA	2005	30.56	
		2006	31.04	
		2007		26.75
38			61.60	26.75
39	PLAIN VISTA DAIRY	2005	5,302.32	
		2006	3,153.26	
		2007	11,876.93	
		2008	10,473.57	
39			30,806.08	
40	EMMELKAMP, COURTNEY	2005	576.00	
		2006	289.00	
		2007	213.00	
40			1,078.00	
41	EMMELKAMP, LARRY D.	2005	4,330.13	
		2006	2,388.71	
		2007	2,034.49	

Quality Premium & Deductions Jan 2005 through September 2008

Prod Number	Name	Year	Cal Yr Qual Pm	Cal Yr Qual Ded
64			24,588.54	1,028.08
65	LEWIS, DAVID	2005	8,012.75	
		2006	9,840.98	
		2007	9,891.35	
		2008	11,416.16	
65			39,161.24	
67	L.R. ANDERSON DAIRY	2007		666.43
		2008	159.79	141.72
67			159.79	808.15
69	DAUGHERTY, DAN	2005	4,252.56	
		2006	912.48	
		2007	569.48	162.33
		2008	1,256.07	
69			6,990.59	162.33
71	HULS DAIRY INC.	2005	18,463.09	
		2006	11,625.82	
		2007	6,876.05	8,705.89
		2008	1,859.14	8,546.84
71			37,824.10	17,252.73
72	SALOMON DAIRY	2007		1,006.51
		2008		164.27
72				1,169.78
73	RO-MONT DAIRY	2005	798.53	86.03
73			798.53	86.03
74	NOAKES, DEAN C.	2007		418.77
		2008		298.89
74				717.66
76	SCHOCK'S MISSION DAIRY	2005	4,722.79	
		2006	3,109.71	
		2007	1,913.54	353.71
		2008	1,769.28	
76			11,515.32	353.71
77	KAUFFMAN, STEVE	2005	55.84	
77			55.84	
78	WANDLER DAIRY	2005	2,345.58	
		2006	1,826.92	
		2007	1,146.21	
		2008	1,096.40	
78			6,415.11	
80	ROCKIN HEARTS RANCH	2005	275.87	42.52
80			275.87	42.52
81	GONZALEZ, JOHN R	2005		1,150.29
81				1,150.29
82	MONTANA STATE PRISON	2005	5,228.31	
		2006	1,599.61	

MARKETING AGREEMENT WITH COUNTRY
CLASSIC DAIRIES.

COUNTRY CLASSIC DAIRIES, INC., agrees to market dairy products for the undersigned producer and pay to him the net proceeds therefrom and the producer agrees to deliver to the Association, or to its order, for marketing, all of the dairy products he produces during the term of this Agreement, except those which he produces for immediate consumption on his own farm, and to supply the Association with funds for its expenses, capital and reserves, all upon the following terms and conditions:

A. ASSOCIATION AND MEMBERSHIP

The Producer is a member and a patron of the Association and does hereby, for himself, individually, and also as a member of the Association, ratify, approve and agree to all the terms of Country Classic Dairies, Inc.'s Articles of Incorporation and its Bylaws and the same are hereby incorporated into this Agreement by reference. This contract is the same agreement as signed by all other members of the Association. For all purposes of this Contract, the Association shall be deemed to be acting in its own name for all such members for every act which may arise out of this contract.

B. MARKETING

The Producer shall deliver his dairy products promptly to the Association or to its order at such place and in such manner and in such containers as the Association may specify, and he hereby warrants that said dairy products will be produced in accordance with and will conform to all Federal, State and local laws, rules and regulations (including compliance with minimum standards as set forth in the Association's Quality Program). The Association may grade and/or classify said dairy products as to kind, quality, state of preparation for marketing or other basis and it may mingle said dairy products with similarly classified or graded dairy products, delivered to it by other producers. All such dairy products may be treated as

if they were the absolute property of the Association. The Association hereby authorized to handle, transport, store, process, sell, borrow money and exercise every other right of ownership upon said dairy products. The Association will use its best efforts to sell all said dairy products at the best price obtainable in its judgment. The time, place, manner, terms and conditions of delivery, grading and classification and sale shall be such as the Association may deem fair and advantageous to the group of producers marketing dairy products through it.

C. DISTRIBUTION OF PROCEEDS

The proceeds derived from the sale of all dairy products shall be received by or at the order of the Association. The Association's cost in marketing said dairy products (including but not limited to the cost of handling, transporting, processing, packaging, storing, selling, overhead costs, interest and dividends on its obligations and stock) shall be chargeable to and deducted from said proceeds and the remainder shall be deemed to be "the net proceeds of the sale." The producer shall receive in full payment for his dairy products in a pro rata share of the net proceeds. Such payments shall be disbursed to the producer as follows:

(1) Within a reasonably short time after the delivery and acceptance of said dairy products, the Association will pay over to the producer all moneys due the producer as set forth above, less the per unit retain if designated by the Board of Directors as provided for in the Association's Bylaws. Said retainage shall be recorded in the Association's books and the producer shall thereafter be issued a certificate evidencing such retainage.

(2) By or before the 15th day of June, of each year, the Association shall determine its net earnings for the immediate previous fiscal year, in the manner and as provided in the Association's Bylaws, and shall allocate such earnings to its patrons, members and any other patrons with whom the Association contracts to deal on a non-profit, cooperative basis, and shall evidence such allocations in the manner as provided by the Association's Bylaws.